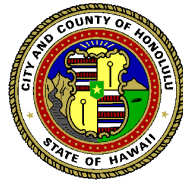


**ETHICS COMMISSION
CITY AND COUNTY OF HONOLULU**

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KIRK CALDWELL
MAYOR



JAN K. YAMANE
EXECUTIVE DIRECTOR
AND LEGAL COUNSEL

**ETHICS COMMISSION
CITY AND COUNTY OF HONOLULU**

Date and Place: June 19, 2019
Kapālama Hale
1st Floor Conference Room
925 Dillingham Boulevard
Honolulu, Hawai'i 96817

Present: Hon. Victoria Marks (ret.), Chair

Hon. Riki Amano (ret.), Commissioner
David B. Monk, Commissioner
Hon. Allene Suemori (ret.), Commissioner

Jan K. Yamane, Executive Director and Legal Counsel (EDLC)
Laurie Wong-Nowinski, Associate Legal Counsel (ALC)
Janice K. Yonamine, Investigator (INV)
Kristine Bigornia (TA), Legal Clerk III (LCIII)

Moana Yost, Deputy Corporation Counsel,
Department of the Corporation Counsel (COR)

Christina Jedra, Reporter, Civil Beat
Sandy Ma, Executive Director, Common Cause
Steven Goto, Esq. (Only for Agenda Item III.B.)

Absent: Michael Lilly, Esq., Vice Chair
Peter S. Adler, Commissioner
Lynette Lo Kanda, Commissioner

MINUTES OF THE ETHICS COMMISSION MEETING

I. Call to Order, Public Notice, Quorum

Chair Marks called the meeting to order at 11:38 a.m., declaring quorum with Commissioners Amano, Monk, and Suemori present.

II. New Business

A. Chair's Report

1. Announcements, Introductions, Correspondence, and Additional Distribution

- a. Resolution No. 19-057, CONFIRMING THE REAPPOINTMENT OF MS. RIKI MAY AMANO TO SERVE ON THE ETHICS COMMISSION OF THE CITY AND COUNTY OF HONOLULU (adopted May 8, 2019)

The Commission congratulated Commissioner Amano on her reappointment.

2. For Action: Approval of Open Session Minutes of April 17, 2019

Commissioner Monk made and Commissioner Amano seconded a motion to approve the open session minutes of April 17, 2019. The motion carried unanimously.

3. For Action: Approval of Executive Session Minutes of April 17, 2019

The Commission may convene an executive session pursuant to Section 92-5(a)(4), Hawaii Revised Statutes (HRS), to consult with the Commission's attorneys regarding questions and issues pertaining to the Commission's powers, duties, privileges, immunities, and liabilities.

Commissioner Monk made and Commissioner Amano seconded a motion to approve the executive session minutes of April 17, 2019. The motion carried unanimously.

*****AGENDA ITEM TAKEN OUT OF ORDER*****

At 11:41 a.m., Chair Marks requested to enter executive session. Commissioner Amano made and Commissioner Monk seconded the motion. The motion carried unanimously.

III. Executive Session (The following agenda items will be reviewed in executive session pursuant to Section 92-5(a)(2), Hawaii Revised Statutes (HRS), to consider the hire, evaluation, dismissal, or discipline of an officer or employee or of charges brought against the officer or employee, where consideration of the matters affecting privacy will be involved; Section 92-5(a)(4), HRS, to consult with the Commission's attorney on questions and issues pertaining to the Commission's powers, duties, privileges, immunities and liabilities; or HRS Section 92-5(a)(8) to deliberate or make a decision upon a matter that requires consideration of information that must be kept confidential pursuant to state or federal law or court order.)

A. For Discussion: Executive Director and Legal Counsel Annual Evaluation

- B. For Discussion: Kealoha vs. Totto, Civil No. 16-1-1166 GWBC in the Circuit Court of the First Circuit, State of Hawai‘i, and Civil No. 1:16-CV-16-00682 JMS-KSC in the United States District Court for the District of Hawai‘i

At 12:07 p.m., Commissioner Amano moved to exit executive session and return to open session. Commissioner Suemori seconded the motion. The motion unanimously carried.

Chair Marks reported on executive session matters:

Executive Session Item III.A. – Deferred to the August 21, 2019 meeting.

Executive Session Item III.B. – The Commission discussed litigation with its counsel.

B. Executive Director and Legal Counsel’s Report

1. Staff Work Reports Summary

The EDLC announced that Sr. Clerk Pagkalinawan’s last day with the office was on April 30, 2019, and that he finished most of his assignments.

The EDLC reported with one staff down, LCIII Bigornia will be picking up all clerical responsibilities until positions are re-described and filled.

The EDLC reported INV Yonamine is managing her caseload and continuing to assist with Education and Outreach, including Twitter and conducting training. She attended the basic mediation training at Mediation Center of the Pacific. INV Yonamine stated she liked the training and explained that they learned how to interview, how to speak with people with different personalities, and extract information while remaining neutral. She mentioned that Commissioner Amano was on the panel.

The EDLC reported that in the last reporting period, the ALC has been working on completing the online training curriculum for the FY2019-FY2020 biennial cycle. The EDLC explained that the training biennium is a two-year cycle; the first year is mostly responding requests to specialized groups, the second year is the deployment of the City-wide employee online training. She continued that there will be a bell curve, with a low number in the first year and a high number in the second year. The ALC’s pie chart reflects an equal distribution of Administration and Education and Outreach, and then Complaints.

Chair Marks asked staff if the newsletter was sent out in May. The EDLC confirmed, and will explain later part in the meeting.

Commissioner Amano asked what reporting period the ALC's pie chart covers. The EDLC replied that it is a 60-day period since meetings are held every other month.

Commissioner Amano stated that reducing the administration time the attorney spends, we're addressing complaints at a much higher level with tremendous challenges over the last six months. She congratulated and thanked the staff.

2. Statistics

- a. Website Sessions – April (485) and May (502) 2019
- d. Cases - Aging Report – Update

The EDLC stated that staff has a draft, but will present it at the next scheduled meeting in August 21, 2019, along with the fiscal year-end numbers.

e. Requests for Advice – Update

The EDLC stated that the response turnaround has been 1-2 days, and thanked the ALC for handling while the EDLC was on leave.

Chair Marks asked if staff keeps track of how many of these incoming inquiries are phone calls, email, and etc., and staff confirmed.

f. Trainees – Update

The EDLC reiterated the two-year biennium and that year-end statistics will be presented at the August meeting.

3. Budget

- b. FY2020 Operating Budget Request – Update

The EDLC stated that third reading was on June 5, 2019. The budget has been transmitted to the Mayor, who has until June 24, 2019, to take action.

The EDLC stated our request remained intact, including the EDLC and ALC salary increases and that an Assistant EDLC is in the budget and the position was funded. The EDLC stated that the operating monies are thin.

Chair Marks asked staff that all 10,000 employees, including board and commission members, Cabinet, and City Council, are trained. The EDLC confirmed and stated that at the end of the last of fiscal year, with approximately 9,990 with one department pending. Chair Marks asked if the number includes board and commission members. The EDLC explained no, because that number is reported separately.

The EDLC explained that staff is working with the Department of Information Technology (DIT) to create an online platform for board and commission members. Currently, staff is training them on a private software application.

4. Education and Outreach

a. Ethics Training Program (FY19–FY20) – Update

The ALC reported that on May 1 and May 8, 2019, she, INV Yonamine, and LCIII Bigornia conducted a one-hour training class for 42 private secretaries to the directors and deputy directors. The first half-hour was a refresher on the ethics laws and the second half-hour is the JeoPARODY game. Trainee evaluations were positive and included comments of “loving the new format” and “appreciating a refresher portion before playing the game.”

The ALC reported that on June 18, 2019, she, INV Yonamine, and LCIII Bigornia trained newly promoted Honolulu Police Captains, which is mid-level management. The training class was held at the Police Training Academy located in Waipahu. The ALC stated the evaluations were positive with mostly 5 ratings.

The ALC stated in regard to the biennium online curriculum, we asked the director of Department of Human Resources (DHR), director of the Equal Opportunity Office (EOO), COR Deputy Yost, and Commissioner Kanda, to review and comment. The ALC received everyone’s comments and is currently revising the presentation based on those comments. She anticipates deploying the curriculum at the end of July 2019.

The ALC stated that staff has been working with DIT to develop the external platform for the board and commission course. DIT has already created the user interface but is working on the administration part of the learning management system. LCIII Bigornia will be reaching out to the Commission as test subjects.

Commissioner Monk asked whether employee trainees ask questions. The ALC confirmed, but not often. She explained that at the Police Captain’s training session, she had a great conversation with them regarding a specific situation.

Commissioner Suemori commented that they must like the opportunity to discuss something specific to their department, and the ALC agreed.

b. Twitter – Update

c. E-Newsletter – May 2019 – Update

The ALC announced that staff published the May newsletter. LCIII Bigornia explained that the newsletter was sent to departments’ directors, deputies, their private secretaries, and Administrative Services Officers (ASO) to deploy with their respective departments, and the whole legislative branch. The newsletter was also tweeted to the public.

On Twitter, the ALC stated that we have gained more followers. INV Yonamine showed the newsletter tweet. The ALC concluded that the newsletter was distributed in 3-ways: emailed to City employees, tweeted on our Twitter page, and uploaded on our website.

The ALC thanked LCIII Bigornia and Sr. Clerk Pagkalinawan for their work on the newsletter.

Chair Marks asked if the newsletter provides other agencies' contact numbers if we are not the appropriate agency, and the ALC confirmed.

The EDLC stated that it was her first time to see this particular format via the Twitter feed, and she was amazed at how easily accessible it is that it can be viewed on any device. She also added that Council on Governmental Ethics Laws (COGEL) retweeted our newsletter.

INV Yonamine explained that on Twitter, there is an analytics section for each tweet posted. On our newsletter tweet, it reflected that 411 people saw this tweet.

Commissioner Monk commented that he loves the newsletter and the section that interested him was "What We Do and Don't Do." He explained that it grabbed his attention because in the last few meetings, there have been instances where people who came to talk to the Commission would have benefitted if they had seen that before going down the road to get us to resolve things that are not our kuleana.

The EDLC stated that she liked his suggestion of posting "What We Do and What We Don't" on the website.

Commissioner Amano stated that she received a solicitation through her emails on something regarding ethics with cartoons; whether that is something that staff could use. The ALC confirmed, but only if the EC purchases the product. She mentioned that such vendors are really expensive. Commissioner Amano stated that she will subscribe and send it to staff.

The EDLC stated that at the Society of Corporate Compliance and Ethics (SCCE) Conference, there are a number of education companies that produce short 30 seconds-one minute training videos, which are very good and memorable.

The ALC shared that staff requested that DIT embed our Twitter feed on the EC website so website users can view our tweets.

5. Legislation

- a. Financial Disclosures – Clarify Reporting Year – Update
- b. Lobbyists – Delete Notary Requirement – Update

The ALC stated that she and the EDLC will be meeting with Council Chair Anderson on June 27, 2019 to discuss legislation. The ALC explained it is to remove the notary requirement. She added that the financial disclosure legislation will fix a flaw in the law.

Commissioner Amano commented that some time ago in the legal community, it went from notarized affidavits to declarations. She asked by whether there will be a paragraph at the bottom that says "...by signing this I affirm that..." The ALC confirmed.

6. Education Opportunities – Commissioners and Staff
 - a. SCCE 18th Annual Compliance & Ethics Institute 2019 (September 15–18, 2019), Gaylord National, National Harbor, MD
 - b. 41st Annual COGEL Conference (December 15-18, 2019), Chicago Marriott Downtown, Chicago, IL
 - c. COGEL Newsletter – *The Guardian* (June 2019)

The EDLC hoped to attend the SCCE Conference held in Maryland.

Commissioner Amano stated that she planned to attend the COGEL Conference.

The EDLC informed the Commission that staff distributed COGEL's newsletter that is published intermittently. She raised a concern that agencies don't get much in return for COGEL membership dues, except a discount at the annual conference. The EDLC hopes COGEL will provide more resources to its members.

The EDLC requested that the Commissioners save the date, September 5, 2019, for the 1st Hawaii Ethics Conference; there will likely be about 34 attendees. Daniel Gluck, Executive Director of the Hawaii State Ethics Commission shared his ideas for the conference and is open to more ideas.

Chair Marks asked if Campaign Spending Commission is included. The EDLC responded in the negative stating that only the various ethics commissions were invited to attend.

Commissioner Suemori asked if the conference is for staff or commissioners and if the attendees will be broken into groups. The EDLC confirmed the conference is for both staff and commissioners and that the agenda has not been set. Commissioner Suemori commented that it has been difficult to figure out the roles of Commissioners and staff. Chair Marks clarified that staff has different functions in terms of investigations, prosecution, and adjudication. Commissioner Suemori added the smaller the staff is the more the functions get all mixed up. Chair Marks agreed.

The EDLC stated that on the neighbor islands, the ethics commissions are assigned a COR Deputy. The Commissions do not have their own staff.

Sandy Ma, Executive Director, Common Cause Hawaii, asked if the Hawaii Ethics Conference is open to the public. The EDLC replied that it is not open to the public, and the conference is the first time for all the Commissions to assemble.

Chair Marks commented in the future to invite the Campaign Spending Commission.

Commissioner Amano suggested having a discussion on whether the ethics commissions should have this conference annually. She continued it must be organized with breakout sessions and a short break for lunch.

Commissioner Suemori added that a budget discussion should be on the agenda. The EDLC offered to host the conference in Kapālama Hale because of the free parking and close proximity to the airport.

Commissioner Suemori shared that there are conference rooms at the airport at the top of the parking structure which would also be convenient for the neighbor island attendees.

Chair Marks explained to the audience, in terms of training for staff and commissioners, we have had no training budget. For the last two years, the EDLC at her own expense attended SCCE and COGEL conferences. Commissioner Amano attended two conferences on her own dime; and Chair Marks herself attended one at her own expense. Finally, the office received some training budget for staff to attend these conferences; the ALC attended SCCE last year.

IV. Strategic Planning

- A. PIG Meeting – *Ethics Commission–2027* – Update
- B. For Discussion and Action: *Ethics Commission–2027 (Amended)*

Chair Marks announced that the Permitted Interaction Group (PIG) is finalizing the Strategic Plan. The Strategic Plan will be distributed at the August meeting for review. After approval, the Strategic Plan will be sent to the whole City, unions, interested organizations, and members of the public.

Chair Marks stated that at the last PIG session, the members decided that we need to create a vision of where we want to be in the next couple of years. Commissioner Amano suggested that we envision ideal staffing based on the statistics we keep and staff time-keeping. We need staff to perform everything outlined in the Charter and City Ordinances. Chair Marks concluded we have been working on this Strategic Plan for two years and it is time to get it out.

Commissioner Amano stated the Commission started this project in 2017 with a blueprint that was reviewed and commented on by everyone, including City administration and unions. She further stated that the EC must meet our responsibilities by educating the City and County employees, per Revised Ordinances of Honolulu.

Commissioner Amano stated another function is prosecution, which highlighted some deficiencies in our office. She explained that it is difficult to prosecute cases with a small office because you want to give everyone due process, such as defense filing their documents in a neutral place, instead of at the prosecution office. If a big case comes in front of the Commission, we have to outsource, which will affect budget. We need two lawyers and two investigators to separate cases. By 2027, we're hoping to increase staff to 10. Until then, we have to do something different, but we have a plan.

Chair Marks mentioned that a dedicated trainer is needed. Commissioner Amano agreed because, at present, all staff assists with training. If training duties can be consolidated in one person, it will free up staff for their assigned duties.

Chair Marks stated the Commission needs to discuss our staffing issues with the administration so that positions can be created and funded.

Commissioner Amano stated we looked at several organizations like the Office of Disciplinary Counsel (ODC), which oversees and advises 5,000 practicing lawyers in the state with prosecution. ODC has a large staff, and we want to compare their organization with ours to see how they do it. Ideally, 10 staff would be a good number for us, even though our employees are 10,000. We will need statistics to support our reasons.

The EDLC stated that we need to do a better job of keeping track and letting people know what we do and why we are understaffed.

Ms. Ma asked if the Strategic Plan is in its last phase because over two years it has gone through iterations and reviews. Chair Marks confirmed.

The EDLC stated that the last iteration is available on our website. LCIII Bigornia stated that the PIG met in January 2019 and the most recent drafts are in the February and April meeting materials.

V. Adjournment

A. Next Reserved Meeting Date: July 17, 2019

B. Next Scheduled Meeting Date: August 21, 2019

At 12:56 pm, Commissioner Monk and Commissioner Amano seconded a motion to adjourn the Ethics Commission meeting. The motion carried unanimously.